

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.468 of 2015

Ashok Kumar Singh

... .. Appellant/s

Versus

Kamaldeo Prasad Singh & Anr

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binod Kumar Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 06-11-2018

Heard the parties.

From perusal of the record, it appears that the appellant has filed this miscellaneous appeal under Section 299 of the Indian Succession Act for setting aside the judgment dated 02.07.2015 passed by Additional District Judge-II, Saran in contested Probate Case No. 18 of 1991.

Division Bench of this Court in the case of **Kusheshwar Purbe vs. Shri Shri 108 Ram Janaki Jee and others** reported in **2017 (3) PLJR 791** has been pleased to rule that the appeals filed under Section 299 of the Indian Succession Act in a contentious proceeding as envisaged under Section 295 shall be treated as First Appeal and would be governed by the procedure prescribed for such an appeal.

In view of the aforesaid decision of this Court, this



miscellaneous appeal filed against the judgment passed in contested probate case is not maintainable rather First Appeal is maintainable against the same.

Hence, appellant is directed to take step for conversion of this miscellaneous appeal into First Appeal within two weeks after the Diwali and Chhath Pooja Holidays.

(Prakash Chandra Jaiswal, J)

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